

Executive Summary – Enforcement Matter – Case No. 50656
Nelson Gardens Energy, LLC
RN106307663
Docket No. 2015-0869-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Nelson Gardens Energy Plant, 8339 Covell Road, San Antonio, Bexar County

Type of Operation:

Landfill gas electric generating plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 29, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,938

Amount Deferred for Expedited Settlement: \$2,787

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$5,576

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$5,575

Name of SEP: Landfill Visibility Marker Installation (Custom)

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 13, 2015 through March 13, 2015

Date(s) of NOE(s): May 20, 2015

Executive Summary – Enforcement Matter – Case No. 50656
Nelson Gardens Energy, LLC
RN106307663
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Violation Information

1. Failed to submit a permit compliance certification ("PCC") within 30 days after the end of the certification period. Specifically, the PCC for the January 1, 2014 through December 31 2014 certification period was due by January 30, 2015, but was not submitted until February 20, 2015 [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. 03539/General Operating ("GOP") No. 517, Site-Wide Requirements (b)(2)].
2. Failed to conduct the required initial performance tests on four engines within 180 days after start-up. Specifically, the Respondent did not conduct performance testing on four engines, Emission Point Numbers ("EPNs") NG1, NG2, NG3, and NG4, by August 18, 2014 [30 TEX. ADMIN. CODE §§ 101.20(1) and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 60.4243(b)(2)(ii), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 03539/GOP No. 517, Site-Wide Requirement No. (b)(29)].
3. Failed to submit a semi-annual deviation report within 30 days after the end of the reporting period. Specifically, the Respondent did not conduct the initial performance tests on four engines by August 18, 2014 and the deviation report for the July 1, 2014 through December 31, 2014 reporting period was due by January 30, 2015, but was not submitted [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 03539/GOP No. 517, Site-Wide Requirements (b)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On February 20, 2015, submitted the PCC for the January 1, 2014 through December 31, 2014 certification period;
- b. On July 20, 2015, conducted the initial performance tests of the four engines, EPNs NG1, NG2, NG3, and NG4; and
- c. On July 22, 2015, submitted the deviation report for the July 1, 2014 through December 31, 2014 reporting period.

**Executive Summary – Enforcement Matter – Case No. 50656
Nelson Gardens Energy, LLC
RN106307663
Docket No. 2015-0869-AIR-E**

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Eduardo Heras, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-2422; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: Meaghan Bailey, SEP Coordinator, Litigation Division, MC 175, (512) 239-0205
Respondent: W. Gary Craig, Member, Nelson Gardens Energy, LLC, 225 Greenfield Parkway, Suite 102, Liverpool, New York 13088
Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-0869-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Nelson Gardens Energy, LLC
Penalty Amount:	Eleven Thousand One Hundred Fifty-One Dollars (\$11,151)
SEP Offset Amount:	Five Thousand Five Hundred Seventy-Five Dollars (\$5,575)
Type of SEP:	Custom
Project Name:	<i>Landfill Visibility Marker Installation</i>
Location of SEP:	Bexar

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hire a contractor to purchase and install high visible yellow markers to identify the location of gas wells on a closed landfill owned by the City of San Antonio, permit number 1237, located at 8339 Coval Road in San Antonio, Texas. Oftentimes, the unmarked gas well is hit by a mower causing methane leaks into the atmosphere. The yellow markers must be installed high enough to be seen above the grass. Such markers would help mowers avoid contacting the gas collection system while mowing. The City of San Antonio owns the landfill, and the gas collection system. The City of San Antonio Solid Waste Department mows the grass on the landfill. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: purchasing and installation of visibility markers (the "Project"). Respondent shall solicit bids from qualified contractors to install the system. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C, Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

Nelson Gardens Energy, LLC
Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by decreasing occurrence of unintended methane emissions while mowing. This Custom SEP would be in the spirit of the August 14, 2015 proposed EPA rules to decrease methane emissions from landfills, including closed landfills.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Yellow gas pipe	2,500	\$2.20	Linear feet	\$5,500
Freight	2	\$150	Each	\$300
4 ft Rebar anchor for markers on mounds and laterals	200	\$2.40	Each	\$480
4 ft Rebar anchor for wells and monitoring points	300	\$2.40	Each	\$720
Cut & prepare	500	\$2.50	Each	\$1,250
Installation	500	\$8.00	Each	\$4,000
Total				\$12,250

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Nelson Gardens Energy, LLC
Attachment A

Days from Effective Order Date	Information Required	
30	Notice of Commencement describing actions taken to begin project	
90	Actions completed during previous 60-day period	
180	Actions completed during previous 90-day period	
270	Actions completed during previous 90-day period	
365	Notice of SEP completion	

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of the SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of publication of invitation for bids (publication must include the statement that the SEP was performed as a result of a TCEQ enforcement action);
4. A certified/notarized statement of quantifiable environmental benefit;
5. Detailed map showing specific locations of the gas wells and yellow markers;
6. Dated photographs of the purchased materials and supplies; before and after work being performed during the installation process; and of the completed Project; and
7. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

Nelson Gardens Energy, LLC
Attachment A

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned PCW	26-May-2015	Screening	11-Jun-2015	EPA Due	
		16-Nov-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	Nelson Gardens Energy, LLC		
Reg. Ent. Ref. No.	RN106307663		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	50656	No. of Violations	3
Docket No.	2015-0869-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Eduardo Heras
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$14,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **10.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,450**

Notes Enhancement for one agreed order with denial. Reduction for high performer classification.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **-\$2,012**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$191**
Estimated Cost of Compliance **\$4,500**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$13,938**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$13,938**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$13,938**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,787**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$11,151**

Screening Date 11-Jun-2015

Docket No. 2015-0869-AIR-E

PCW

Respondent Nelson Gardens Energy, LLC

Policy Revision 4 (April 2014)

Case ID No. 50656

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106307663

Media [Statute] Air

Enf. Coordinator Eduardo Heras

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one agreed order with denial. Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 10%

Screening Date 11-Jun-2015

Docket No. 2015-0869-AIR-E

PCW

Respondent Nelson Gardens Energy, LLC

Policy Revision 4 (April 2014)

Case ID No. 50656

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106307663

Media [Statute] Air

Enf. Coordinator Eduardo Heras

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.146(2), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. O3539/General Operating Permit ("GOP") No. 517, Site-Wide Requirements (b)(2)

Violation Description Failed to submit a permit compliance certification ("PCC") within 30 days after the end of the certification period. Specifically, the PCC for the January 1, 2014 through December 31, 2014 certification period was due by January 30, 2015, but was not submitted until February 20, 2015.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			15.0%
100% of the rule requirement was not met.					

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 21 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$3,750

One single event is recommended for one late PCC.

Good Faith Efforts to Comply

25.0%

Reduction \$937

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent completed corrective actions on February 20, 2015, before the May 20, 2015 Notice of Enforcement.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,188

This violation Final Assessed Penalty (adjusted for limits) \$3,188

Economic Benefit Worksheet

Respondent Nelson Gardens Energy, LLC

Case ID No. 50656

Reg. Ent. Reference No. RN106307663

Media Air

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	30-Jan-2015	20-Feb-2015	0.06	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to submit the PCC for the January 1, 2014 through December 31, 2014 certification period. The Date Required is the date the PCC was due. The Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$1

Screening Date 11-Jun-2015

Docket No. 2015-0869-AIR-E

PCW

Respondent Nelson Gardens Energy, LLC

Policy Revision 4 (April 2014)

Case ID No. 50656

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106307663

Media [Statute] Air

Enf. Coordinator Eduardo Heras

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 101.20(1) and 122.143(4), 40 Code of Federal Regulations § 60.4243(b)(2)(ii), Tex. Health & Safety Code § 382.085(b), and FOP No. O3539/GOP No. 517, Site-Wide Requirements No. (b)(29)

Violation Description

Failed to conduct the required Initial performance tests on four engines within 180 days after start-up. Specifically, the Respondent did not conduct performance testing on four engines, Emission Point Numbers ("EPNs") NG1, NG2, NG3, and NG4, by August 18, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 4

336 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,000

Four single events are recommended, one per engine.

Good Faith Efforts to Comply

10.0%

Reduction \$700

Extraordinary

Ordinary

N/A

Notes

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

	x
	(mark with x)

The Respondent completed corrective actions on July 20, 2015, after the May 20, 2015 Notice of Enforcement.

Violation Subtotal \$6,300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$184

Violation Final Penalty Total \$7,000

This violation Final Assessed Penalty (adjusted for limits) \$7,000

Economic Benefit Worksheet

Respondent Nelson Gardens Energy, LLC

Case ID No. 50656

Reg. Ent. Reference No. RN106307663

Media Air

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/Construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling	\$4,000	18-Aug-2014	20-Jul-2015	0.92	\$184	\$184
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct the initial performance tests of the four engines, EPNs NG1, NG2, NG3, and NG4. The Date required is the date the engines were required to have been tested. The Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$4,000

TOTAL

\$184

Screening Date 11-Jun-2015

Docket No. 2015-0869-AIR-E

PCW

Respondent Nelson Gardens Energy, LLC

Policy Revision 4 (April 2014)

Case ID No. 50656

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106307663

Media [Statute] Air

Enf. Coordinator Eduardo Heras

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(B), Tex. Health & Safety Code § 382.085(b), and FOP No. O3539/GOP No. 517, Site-Wide Requirements No. (b)(2)

Violation Description

Failed to submit a semi-annual deviation report within 30 days after the end of the reporting period. Specifically, the Respondent did not conduct the initial performance tests on four engines by August 18, 2014 and the deviation report for the July 1, 2014 through December 31, 2014 reporting period was due by January 30, 2015, but was not submitted.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 173 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$3,750

One single event is recommended for the late report.

Good Faith Efforts to Comply

10.0%

Reduction \$375

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent completed corrective actions on July 22, 2015, after the May 20, 2015 Notice of Enforcement.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Nelson Gardens Energy, LLC

Case ID No. 50656

Reg. Ent. Reference No. RN106307663

Media Air

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	30-Jan-2015	22-Jul-2015	0.47	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to submit the deviation report for the July 1, 2014 through December 31, 2014 reporting period. The Date Required is the date the first deviation report was due. The Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$6

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604009589, RN106307663, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604009589, Nelson Gardens Energy, LLC **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN106307663, NELSON GARDENS ENERGY PLANT **Classification:** HIGH **Rating:** 0.00

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 06 - Electric Power Generation

Location: 8339 COVEL RD SAN ANTONIO, TX, BEXAR COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

AIR NEW SOURCE PERMITS REGISTRATION 100111

AIR OPERATING PERMITS PERMIT 3539

AIR NEW SOURCE PERMITS AFS NUM 4802900710

AIR EMISSIONS INVENTORY ACCOUNT NUMBER
BGA019S

AIR EMISSIONS INVENTORY ACCOUNT NUMBER
BGA019S

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: June 08, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 08, 2010 to June 08, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Eduardo Heras

Phone: (512) 239-2422

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 09/22/2014 ADMINORDER 2014-0505-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: Site Wide Requirements OP
Description: Failed to submit a PCC within 30 days after the end of the certification period.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
NELSON GARDENS ENERGY, LLC	§	
RN106307663	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2015-0869-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Nelson Gardens Energy, LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a landfill gas electric generating plant located at 8339 Covell Road in San Antonio, Bexar County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 25, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirteen Thousand Nine Hundred Thirty-Eight Dollars (\$13,938) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Five Hundred Seventy-Six Dollars (\$5,576) of the administrative penalty and Two Thousand

Seven Hundred Eighty-Seven Dollars (\$2,787) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. Five Thousand Five Hundred Seventy-Five Dollars (\$5,575) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On February 20, 2015, submitted the permit compliance certification ("PCC") for the January 1, 2014 through December 31, 2014 certification period;
 - b. On July 20, 2015, conducted the initial performance tests of the four engines, Emission Point Numbers ("EPNs") NG1, NG2, NG3, and NG4; and
 - c. On July 22, 2015, submitted the deviation report for the July 1, 2014 through December 31, 2014 reporting period.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to submit a PCC within 30 days after the end of the certification period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.146(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O3539/General Operating ("GOP") No. 517, Site-Wide Requirements (b)(2), as documented during an investigation conducted from February 13, 2015 through March 13, 2015. Specifically, the PCC for the January 1, 2014 through December 31 2014 certification period was due by January 30, 2015, but was not submitted until February 20, 2015.

2. Failed to conduct the required initial performance tests on four engines within 180 days after start-up, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and 122.143(4), 40 CODE OF FEDERAL REGULATIONS § 60.4243(b)(2)(ii), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 03539/GOP No. 517, Site-Wide Requirement No. (b)(29), as documented during an investigation conducted from February 13, 2015 through March 13, 2015. Specifically, the Respondent did not conduct performance testing on four engines, EPNs NG1, NG2, NG3, and NG4, by August 18, 2014.
3. Failed to submit a semi-annual deviation report within 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(B), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. 03539/GOP No. 517, Site-Wide Requirements (b)(2), as documented during an investigation conducted from February 13, 2015 through March 13, 2015. Specifically, the Respondent did not conduct the initial performance tests on four engines by August 18, 2014 and the deviation report for the July 1, 2014 through December 31, 2014 reporting period was due by January 30, 2015, but was not submitted.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Nelson Gardens Energy, LLC, Docket No. 2015-0869-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Five Hundred Seventy-Five Dollars (\$5,575) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Ramona Garcia
For the Executive Director

4/29/16
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

W. Gary Craig
Signature

March 21, 2016
Date

W. Gary Craig
Name (Printed or typed)
Authorized Representative of
Nelson Gardens Energy LLC

Member
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2015-0869-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Nelson Gardens Energy, LLC
Penalty Amount:	Eleven Thousand One Hundred Fifty-One Dollars (\$11,151)
SEP Offset Amount:	Five Thousand Five Hundred Seventy-Five Dollars (\$5,575)
Type of SEP:	Custom
Project Name:	<i>Landfill Visibility Marker Installation</i>
Location of SEP:	Bexar

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hire a contractor to purchase and install high visible yellow markers to identify the location of gas wells on a closed landfill owned by the City of San Antonio, permit number 1237, located at 8339 Coval Road in San Antonio, Texas. Oftentimes, the unmarked gas well is hit by a mower causing methane leaks into the atmosphere. The yellow markers must be installed high enough to be seen above the grass. Such markers would help mowers avoid contacting the gas collection system while mowing. The City of San Antonio owns the landfill, and the gas collection system. The City of San Antonio Solid Waste Department mows the grass on the landfill. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: purchasing and installation of visibility markers (the “Project”). Respondent shall solicit bids from qualified contractors to install the system. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

Nelson Gardens Energy, LLC
Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by decreasing occurrence of unintended methane emissions while mowing. This Custom SEP would be in the spirit of the August 14, 2015 proposed EPA rules to decrease methane emissions from landfills, including closed landfills.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Yellow gas pipe	2,500	\$2.20	Linear feet	\$5,500
Freight	2	\$150	Each	\$300
4 ft Rebar anchor for markers on mounds and laterals	200	\$2.40	Each	\$480
4 ft Rebar anchor for wells and monitoring points	300	\$2.40	Each	\$720
Cut & prepare	500	\$2.50	Each	\$1,250
Installation	500	\$8.00	Each	\$4,000
Total				\$12,250

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Nelson Gardens Energy, LLC
Attachment A

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of the SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of publication of invitation for bids (publication must include the statement that the SEP was performed as a result of a TCEQ enforcement action);
4. A certified/notarized statement of quantifiable environmental benefit;
5. Detailed map showing specific locations of the gas wells and yellow markers;
6. Dated photographs of the purchased materials and supplies; before and after work being performed during the installation process; and of the completed Project; and
7. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

Nelson Gardens Energy, LLC
Attachment A

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to “Texas Commission on Environmental Quality,” and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.